

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WAR N. MARION,

Plaintiff,

v.

JANEL NICKELS, DYLAN RADTKE,
CHAD KELLER and B. NEUMAIR,

Defendants.

ORDER

09-cv-723-bbc

In response to an order entered in this case on December 3, 2009, plaintiff has submitted a trust fund account statement covering the six-month period immediately preceding the filing of the complaint. From this statement, I conclude that plaintiff has the means to prepay a portion of the filing fee in the amount of \$4.29. If plaintiff does not have the money to make the initial partial payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that plaintiff is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount plaintiff must pay at this time is the \$4.29 initial partial payment. Before prison officials take any portion of that amount from plaintiff's

release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes. Plaintiff is reminded that this is just the first step in obtaining leave to proceed in forma pauperis under 28 U.S.C. § 1915. After he sends in the payment, the court will review his complaint to decide whether to grant plaintiff leave to proceed on it. Leave will not be granted if the action must be dismissed as malicious or legally "frivolous," a term that means that the complaint does not allege a claim of any kind. Leave can be denied also if the complaint does not state a claim on which plaintiff could obtain relief under the law or if plaintiff is asking for money from a defendant who is legally protected from having to pay money in his case. Plaintiff should show a copy of this order to institution officials to make sure they know they should send plaintiff's partial filing fee to this court.

ORDER

IT IS ORDERED that plaintiff qualifies for pauper status on the condition that he prepay \$4.29 of the \$350 filing fee. He is to submit a check or money order made payable to the clerk of court in that amount on or before January 5, 2010. If, by January 5, 2010, plaintiff fails to prepay the amount he has been ordered to pay, I will dismiss his case for his

failure to prosecute it.

Entered this 17th day of December, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge